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THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

WRIT PETITION NO. 24448 OF 1996

DATED: 28-10-2005

Between

HEH the Nizam's Jewellery Trust &

HEH the Nizam's Supplemental Jewellery Trust,

Rep. by its Trustee, Mr. M.A. Hadi, aged about 68 years,

Single Mahal, Purani Haveli, Hyderabad.

..... PETITIONER

And

Asst Commissioner of Income – tax,

Circle _ 1(3), Ayakar Bhavan,

Basheerbagh, Hyderabad and others.

..... RESPONDENTS

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WRIT PETITION NO. 24448 OF 1996

ORDER: (per Sri S. Ananda Reddy, J)

The writ petition is filed by the petitioner – Trust praying for the issue of Writ of Mandamus declaring the adjustment of the amount of Rs.15.45 Crores which was deposited by the petitioner – Trust towards any tax payment other than the tax demands relatable to the beneficial interest in the petitioner – Trust of any of its beneficiaries as illegal, arbitrary, unjust and unreasonable and consequently, sought for a direction to adjust the amount deposited by the Trust as indicated in its letter.

The grievance of the petitioner – Trust is that though the Trust has deposited Rs.15.45 Crores towards the wealth tax liabilities with reference to the trust funds, but however, the said amount was adjusted or proposed to be adjusted against the individual liabilities of the beneficiaries which is not permissible and therefore, the petitioner sought for appropriate orders.

A counter has been filed on behalf of the respondents disputing the claim of the petitioner with reference to the alleged adjustments of any part of the amounts against the tax liabilities of the individual beneficiaries. At the time of hearing, learned senior standing counsel represented on instructions that the Department has been following the instructions issued by the Trust in its letter as to the mode of adjustment. Therefore, there is no cause of action for the petitioner to seek any relief.

In view of the above representation, we consider it appropriate to dispose of the writ petition recording the said statement of the learned senior standing counsel for the Department and further directing the respondents to adjust the amount as indicated in the letter of the petitioner – Trust and not otherwise.

It is also stated that the Department has passed orders prohibiting the payment of Rs.14.05 Crores which is lying in the State Bank of Hyderabad, Gunfoundry Branch creating a lien to the Department. Out of the said amount, Rs.4.39 Crores was released as per the instructions of the Department leaving an amount of rs.9.66 Crores where the Department had created a lien and the said amount is lying in the Bank. If the said amount is collected by the Department towards the tax liability of the Trust, it is open to the petitioner – Trust to convey its desire as to the mode of adjustment as against the liabilities, perhaps in the same proportion as was indicated in the trust deed and if such indication is made by the petitioner – Trust, the Department is directed to adjust in the same mode as indicated by the petitioner.

It is contended on behalf of the 4th respondent that though the trust funds were adjusted against his tax liability by the Department, the Trust has collected the amount which was adjusted against his liability. Therefore, his interest requires to be protected. This issue is outside the scope of the present writ petition. If the 4th respondent has got any grievance or claim against the trust, it is always open to the 4th respondent to make a claim or initiate any other proceedings in accordance with law, which may have to be adjudicated on its own merits.

Though some of un-official respondents got impleaded and sought to raise certain

claims with reference to the amount collected from them individually but as the issue in the writ petition is not concerned with such issues, we decline to go into those contentions and it is open to the respondents to pursue their remedies that are available to them under law.

The Writ Petition is accordingly disposed of without any order as to costs.

(B. Sudershan Reddy, J)

28..10..2005

(S. Ananda Reddy, J)

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